No. 91-744
No. 91-902

Supreme Court, U.S.
FILED
MAR 6 1992
OFFICE OF THE CLERK

IN THE
Supreme Court of the United States
OCTOBER TERM, 1991

PLANNED PARENTHOOD OF SOUTHEASTERN PENNSYLVANIA, REPRODUCTIVE HEALTH AND COUNSELING CENTER, WOMEN'S HEALTH SERVICES, INC., WOMEN'S SUBURBAN CLINIC, ALLENTOWN WOMEN'S CENTER, and THOMAS ALLEN, M.D., on behalf of himself and all others similarly situated,

Petitioners, Cross-Respondents,

vs.

ROBERT P. CASEY, N. MARK RICHARDS, and ERNEST D. PREATE, JR., personally and in their official capacities,

Respondents, Cross-Petitioners.

ON PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF OF THE PENNSYLVANIA COALITION AGAINST DOMESTIC VIOLENCE, THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN, ET AL., AS *AMICI CURIAE* IN SUPPORT OF THE PETITIONERS/CROSS-RESPONDENTS

(List of *Amici Curiae* continued on inside cover)

PHYLLIS GELMAN
Counsel of Record
Suite 11-A
211 West 106th Street
New York, New York 10025
(212) 749-5736

BARBARA J. HART
Pennsylvania Coalition Against
Domestic Violence
524 McKnight Street
Reading, Pennsylvania 19601
(215) 373-5697

Attorneys for Amici Curiae

Alle-Kiski Area Hope Center, Inc.
Battered Women's Program, Capital Area Family Violence Center, Inc.
Berks Women in Crisis
Bradford County Coalition for Choice
Caring Unlimited, Inc.
Cleveland Rape Crisis Center
Clinton County Women's Center
Colorado Domestic Violence Coalition
Connecticut Coalition Against Domestic Violence
Domestic Violence Research and Resources
Families in Transition Center
Family Service of Philadelphia
Florida Coalition Against Domestic Violence
Gwinnett Citizens for Choice
Hospitality House Services for Women, Inc.
Houston Area Women's Center
Illinois Coalition Against Sexual Assault
Laurel House
Lutheran Social Services - South Region
Marin Abused Women's Services
Men Stopping Violence, Inc.
My Sister's Place
National Coalition Against Domestic Violence
National Coalition Against Sexual Assault
National Women Abuse Prevention Center
New Jersey Coalition for Battered Women
New York State Coalition Against Domestic Violence
Oregon Coalition Against Domestic and Sexual Violence
Pennsylvania Campaign for Choice
Pennsylvania Coalition Against Rape
Psychology Society
Survivors, Inc.
Tioga County Women's Coalition
Turning Point of Lehigh Valley, Inc.
Vermont Network Against Domestic Violence and Sexual Assault
Volunteers Against Abuse Center of Butler County, Inc.
Washington Coalition of Sexual Assault Programs
A Woman's Place
Women Against Abuse, Inc. and Women Against Abuse Legal Center, Inc.
Women's Center & Shelter of Greater Pittsburgh
Women's Center of Montgomery County
Women's Center of Warren and Forest Counties, Inc.
Women's Coalition of St. Croix, Virgin Islands
Women's Help Center, Inc.
Women's Resources of Monroe County, Inc.

TABLE OF CONTENTS

Table of Authorities v

Interest of *Amici Curiae* 1

Summary of Argument 2

ARGUMENT:

I. SECTION 3209 IS UNCONSTITUTIONAL BECAUSE IT WILL PREVENT BATTERED AND ABUSED WIVES FROM EXERCISING THEIR RIGHT TO HAVE AN ABORTION 3

A. Domestic Violence Burdens Wives' Exercise of Reproductive Choice 4

1. Many Married Women in Pennsylvania Are Battered and Raped 5

2. Reproductive Coercion Is A Substantial Component of Domestic Violence Against Married Women 7

3. Married Women Continue to Be Abused by Their Husbands After Separation 11

B. Because Women Fear That Reporting Abuse Will Result in Further Violence Against Them, the Exceptions in §3209 Are Unavailing 14

C. Section 3209 Provides No Protection for Psychologically Abused Married Women Who Are at Risk of Forced Pregnancy 19

II. THE HUSBAND NOTIFICATION REQUIREMENT IS NOT RATIONALLY RELATED TO ANY LEGITIMATE STATE PURPOSE 22

Conclusion 24

APPENDIX: Statements of Interest of *Amici Curiae*

Pennsylvania Coalition Against Domestic Violence A1

American Association of University Women A3

Alle-Kiski Area Hope Center, Inc. A3

Battered Women's Program, Capital Area Family Violence Center, Inc. A3

Berks Women in Crisis A4

Bradford County Coalition for Choice A4

Caring Unlimited, Inc. A4

Cleveland Rape Crisis Center A5

Clinton County Women's Center A5

Colorado Domestic Violence Coalition A6

Connecticut Coalition Against Domestic Violence A6

Domestic Violence Research and Resources A7

Families in Transition Center, Milford, Delaware A8

Family Service of Philadelphia A9

Florida Coalition Against Domestic Violence A9

Gwinnett Citizens for Choice A10

Hospitality House Services for Women, Inc. A10

Houston Area Women's Center A11

Illinois Coalition Against Sexual Assault (ICASA) A11

Laurel House A12

Lutheran Social Services - South Region A12

Marin Abused Women's Services A13

Men Stopping Violence, Inc. A13

My Sister's Place A13

National Coalition Against Domestic Violence A14

National Coalition Against Sexual Assault A15

National Women Abuse Prevention Center A15

New Jersey Coalition for Battered Women A16

New York State Coalition Against Domestic Violence .. A16

Oregon Coalition Against Domestic and Sexual Violence A17

Pennsylvania Campaign for Choice A17

Pennsylvania Coalition Against Rape A18

Psychology Society A18

Survivors, Inc. A18

Tioga County Women's Coalition A19

Turning Point of Lehigh Valley, Inc. A19

Vermont Network Against Domestic Violence and Sexual Assault A20

Volunteers Against Abuse Center of Butler County, Inc. A20

Washington Coalition of Sexual Assault Programs A21

A Woman's Place A21

Women Against Abuse, Inc. and Women Against Abuse Legal Center, Inc. A22

Women's Center & Shelter of Greater Pittsburgh A23

Women's Center of Montgomery County A24

Women's Center of Warren and Forest Counties, Inc. . . A24

Women's Coalition of St. Croix, Virgin Islands A25

Women's Help Center, Inc. A25

Women's Resources of Monroe County, Inc. A25

TABLE OF AUTHORITIES

CASES

Carey v. Population Services Int'l., 431 U.S. 678 (1977) . 23

Eubanks v. Brown, 604 F. Supp. 141, 148 (W.D. Ky. 1984) 4

Planned Parenthood of Central Missouri v. Danforth, 428 U.S. 52 (1976) 3, 23, 24

Planned Parenthood of Rhode Island v. Bd. of Medical Review, 598 F. Supp. 625 (D.R.I. 1984) 4, 22

Planned Parenthood of Southeastern Pennsylvania v. Casey, 947 F.2d 682 (3rd Cir. 1991) . . . . . *passim*

Planned Parenthood of Southeastern Pennsylvania v. Casey, 744 F. Supp. 1323 (E.D. Pa. 1990) . . . . . *passim*

Scheinberg v. Smith, 428 F. Supp. 529, 538 (S.D. Fla. 1979), *vacated and remanded*, 659 F.2d 476 (5th Cir. 1981), *on remand*, 550 F. Supp. 1112 (S.D. Fla. 1982) 4

STATUTES

Pennsylvania Abortion Control Act, 18 Pa. Cons. Stat. §3209 . . . . . *passim*

OTHER AUTHORITIES

American College of Obstetricians and Gynecologists, "The Abused Woman: Fact Sheet," January 3, 1989 10

Bernard, G.W., Vera, H., Vera, M.I., & Newman, G., "Till Death Do Us Part: A Study of Spouse Murder," *Bulletin of the American Academy of Psychiatry and the Law*, 1982 12

Bisea, Napper, Sikes, "Family and Other Intimate Assaults," *Morbidity and Mortality Weekly Report*, U.S. Dept. of Health and Human Services, Vol. 39, No. 31, August 10, 1990, citing Rosenberg, Stark, Zahn, "Interpersonal Violence: Homicide and Spouse Abuse," *Public Health and Preventive Medicine*, 12th ed. (1986) 6

Browne, A., *When Battered Women Kill*, New York, The Free Press, 1987 12

Carlson, Bonnie E., "Dating Violence: A Research Review and Comparison with Spouse Abuse," 68 *Social Casework*, January 1987 6

Casanave, N., and Zahn, M., "Women, Murder and Male Domination: Police Reports of Domestic Homicide in Chicago and Philadelphia," paper presented at the Annual Meeting of the American Society of Criminology, Atlanta, October 31, 1986 12

Chez, Ronald A., "Battered Pregnant Women," *Genesis*, 11:1, January/February 1989 19

Dutton, D.G., *The Domestic Assault of Women: Psychological and Criminal Justice Perspectives*, Boston, Allyn & Bacon, 1988 12

Edleson, J.L., and Syers, M., "The Relative Effectiveness of Group Treatments for Men Who Batter," Research Update, June 1989 18

Federal Bureau of Investigation, *Crime in the United States*, 1986-7 6

Federal Bureau of Investigation, *Crime in the United States*, 1990 7

Frieze, Irene, "Causes and Consequences of Marital Rape,'paper presented at the American Psychological Association Meetings, Montreal, Canada, September 1980 . 7

Gelles, Murray A., and Straus, Richard J., *Intimate Violence*, New York, Simon & Schuster, 1988 . . . . . 19, 20

Gelles, R., "Violence and Pregnancy," *Journal of Marriage and the Family*, 1988 9

Goldsmith, Stephen, "Taking Spouse Abuse Beyond a Family Affair," *Law Enforcement News*, Vol. XVII, no. 334, 1991 18

Katz, S., and Mazur, M., *Understanding the Rape Victim*, Wiley & Sons, 1979 9

Koss, Mary P., "Rape Incidence: A Review and Assessment of the Data," Testimony on behalf of the American Psychological Association before the Senate Judiciary Committee, August 29, 1990 15

Koss, Mary P., Woodruff, M.S., and Koss, Paul G., "Criminal Victimization among Primary Care Medical Patients: Prevalence, Incidence, and Physician Usage," *Behavioral Sciences and the Law*, Vol. 9, 1991 9

Kurz, D., and Coughey, K., "The Effects of Marital Violence on the Divorce Process," paper presented at the American Sociological Association Meeting, August 9, 1989 13

Langley, R., and Levy, R., *Wife-Beating, The Silent Crisis*, 1977 6

National Center on Women and Family Law, "Woman Battering: The Facts," New York, 1989 20

Ohio Attorney General, *Ohio Report on Domestic Violence*, 1979 17

Okun, Lewis, *Women Abuse: Facts Replacing Myths*, Albany, State University of New York Press, 1986 10

Pagelow, Mildred Daley, *Woman-Battering, Victims and Their Experiences,* Beverly Hills, Sage Publications, 1981 ..... 11, 17

Pagelow, Mildred Daley, *Family Violence*, New York, Praeger, 1984 ..... 8, 13

Pennsylvania State Police, *Uniform Crime Report*, 1990 ... 7

Reynolds, Lynn, *Executive Summary of the Second National Workshop on Female Offenders*, Raleigh, NC, April 1987 10

Russell, Diana E.H., *Rape in Marriage*, New York, Macmillan, 1982 8

Saunders, D.G., and Browne, A., "Domestic Homicide," chapter to appear in R.T. Ammerman and M. Herson (eds.) *Case Studies in Family Violence*, New York, Plenum Press 12

Shields, Nancy M., and Hanneke, Christine R., "Battered wives' reactions to marital rape," in Finkelhor, David, Gelles, Richard J., Hotaling, Gerald T., and Straus, Murray A. (eds.), *The Dark Side of Families*, Beverly Hills, Sage, 1983 8

Sonkin, D., Martin, D., and Walker, L.E.A., *The Male Batterer: A Treatment Approach*, New York, Springer, 1985 12

Stark, E., and Flitcraft, A., "Spouse Abuse," in *Surgeon General's Workshop on Violence and Public Health Source Book* 9

Stark, E., Flitcraft, A., Zuckerman, D., Grey, A., Robison, J., & Frazier, W., "Wife Abuse in the Medical Setting: An Introduction for Health Personnel." *Domestic Violence Monograph Series*, No. 7, Rockville, MD, National Clearinghouse on Domestic Violence, April 1981 13

Straus, Murray, Gelles, Richard, and Steinmetz, Suzanne, *Behind Closed Doors: Violence in the American Family*, New York, Doubleday, 1980 6

U.S. Department of Justice, Federal Bureau of Investigation, *Crime in the U.S. - Uniform Crime Reports 1975* 15

U.S. Department of Justice, Bureau of Justice Statistics, *Intimate Victims: A Study of Violence Among Friends and Relatives*, 1980 15

U.S. Department of Justice, Bureau of Justice Statistics, *Report to the Nation on Crime and Justice: The Data*, Government Printing Office, October 1983 ..... 7, 12

U.S. Department of Justice, *Uniform Crime Reports 1985*, Government Printing Office (Federal Bureau of Investigation, 1986) 7

Walker, Lenore, *The Battered Woman Syndrome*, New York, Springer Publishing Company, 1984 ..... 11, 20

Interest of Amici Curiae

Amici are 47 non-profit organizations within and outside Pennsylvania who represent the interests of victims of domestic violence. Organizations from every state and territory in the Third Circuit are included, as well as national organizations and organizations from other states. In this brief *Amici* argue that the husband notification requirement of the Pennsylvania Abortion Control Act impermissibly invades the privacy of battered wives and places them at elevated risk of life-imperiling violence and therefore is unconstitutional.

Amici work to end violence in families and to uphold the rights of women. *Amici* include organizations that provide shelters to which battered women and abused children may escape and be safe from their abusers, organizations that provide counseling to abused women and children, organizations that provide training and technical assistance to the bar, bench and law enforcement agencies on domestic violence, organizations that represent battered women in the courts, organizations that counsel men who are abusive to their intimate partners, and organizations that provide medical and legal advocacy for women. Appendix A to this brief contains the individual Statements of Interest of *Amici*.

Amici have first-hand knowledge of the serious physical and psychological injury suffered by victims of domestic violence. Our experience has demonstrated that many batterers are most life-threatening when their battered wives attempt to leave and thereby escape their husbands' control. Abuse of children by batterers is often instrumental: directed toward controlling the battered woman, preventing her from leaving the relationship, or coercing her to return to the relationship. Kidnapping and hostage-taking of children to gain access to a battered wife or to persuade her to return to the relationship are commonplace.

Amici respectfully file this brief because they believe that, if enforced, the husband notice requirement of the Pennsylvania Abortion Control Act will have a severe impact on the lives and

health of battered and abused wives. *Amici* have found that in dysfunctional marriages, when an abusive husband finds out that his wife is pregnant, the likelihood and severity of physical, emotional and economic abuse increase. Frequently, such an abusive husband will force his wife to carry the pregnancy to term against her will.

As both the District Court and the Court of Appeals found, in the majority of marriages, the decision whether to continue or to terminate a pregnancy will be discussed between the spouses. As to these marriages, the spousal notification provision is superfluous. It is only in dysfunctional marriages, in which the wife is physically battered, psychologically tortured, or raped by her husband that §3209 would operate. In such marriages, the notice requirement, if upheld, will force pregnant abused women who want abortions to choose between their right to obtain an abortion and their physical safety and sometimes their very lives. *Amici* believe that Pennsylvania may not constitutionally impose this choice on battered women, who are among the most vulnerable people in our society.

Summary of Argument

I. The husband notification requirement of the Pennsylvania Abortion Control Act is unconstitutional because it would prevent abused wives from exercising their right to choose abortion. Abuse and rape of wives by their husbands is shockingly widespread. Many abusive husbands frequently use their wives' pregnancies as an instrument of control over their wives, and pregnancy often triggers an escalation of violence. Because of the nature of battering, the exceptions to the notice requirement will not be used by the wives who need them most. Furthermore, the statute contains no exception for psychologically abused wives, who face as great a risk of forced pregnancy as do physically battered wives.

II. The notice requirement is not rationally related to any legitimate state purpose. In functioning marriages the provision is unnecessary, as the wife will disclose her abortion plans

voluntarily to her husband. In abusive marriages coerced notification will operate to grant the abusive husband the *de facto* power to make the abortion decision, in violation of the holding of *Planned Parenthood v. Danforth*.

ARGUMENT

I. SECTION 3209 IS UNCONSTITUTIONAL BECAUSE IT WILL PREVENT BATTERED AND ABUSED WIVES FROM EXERCISING THEIR RIGHT TO HAVE AN ABORTION

In abusive marriages in which wives are terrorized and held hostage by repeated physical violence, economic duress, or continuous emotional abuse, a pregnancy may be both the excuse for aggravated violence by battering husbands and an additional, powerful fetter with which to control and discredit wives. In such marriages, the "real world consequences,"[1] of Pennsylvania's requirement[2] that the wife notify the husband that she is planning to have an abortion would be severely to limit a wife's ability to have an abortion and in many cases to foreclose that choice altogether. In effect, the husband notification requirement would give abusive husbands the "unilateral...ability to prohibit the wife from terminating her pregnancy," *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52, 70 (1976), and hand such husbands an additional weapon to wield in the subordination of their wives. As the District Court and the Court of Appeals held, the statutory exceptions to the husband notification requirement are no remedy because they are unavailable to many abused wives.

Every court that has considered the merits of a spousal

---

[1] *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 947 F.2d 682, 711 (3rd Cir. 1991).

[2] Pennsylvania Abortion Control Act, 18 Pa. Cons. Stat. §3209.

notification requirement has discussed the prevalence of domestic violence as a decisive reason to reject such a requirement. Other than the decisions by the courts below in this case, the most thorough discussion of the actual effect of a spousal notice requirement is in *Planned Parenthood of Rhode Island v. Bd. of Medical Review*, 598 F. Supp. 625 (D.R.I. 1984). There, the court began by holding that "any statute which requires a physician to notify a third party of his or her patient's abortion decision is, as a matter of law, a constitutionally significant burden on a woman's right to an abortion." *Id.*, at 633. The court went on to hold that "[e]ven if a third party notification requirement were not to be considered burdensome as a matter of law, the evidence presented in this case demonstrates that Rhode Island's spousal notification law, if enforced, will have the effect of delaying or totally frustrating a woman's decision to terminate her pregnancy." *Id.* at 634-35. *See also Eubanks v. Brown*, 604 F. Supp. 141, 148 (W.D. Ky. 1984) ("The State should not be in the position of forcing a wife to tell her husband, in many situations where the two are not living together, or where, even if living together, there has been physical abuse or emotional disharmony, about her vitally important decision."); *Scheinberg v. Smith*, 428 F. Supp. 529, 538 (S.D. Fla. 1979), *vacated and remanded*, 659 F.2d 476 (5th Cir. 1981), *on remand*, 550 F. Supp. 1112 (S.D. Fla. 1982) (invalidating spousal notice statute).

A. Domestic Violence Burdens Wives' Exercise of Reproductive Choice

Abused wives do not live in a free country, able to exercise their constitutional rights. Rather, their lives are constricted and confined by their husbands' abusive behavior and their fear of it. Because pregnancy often is both the result of abuse and a catalyst for increased terror, abused wives have great difficulty in effectuating their reproductive choices. Based on their extensive experience with battered women, *Amici* believe that Pennsylvania's requirement that wives notify their husbands of

their abortion plans would prevent many abused wives from exercising their choice to obtain an abortion.12
[3] As the Court of Appeals said:

> The district court found that §3209's notification requirement creates a substantial risk that women who would otherwise have an abortion will be prevented from having one. Abortion is a matter about which individuals have deeply held and strongly felt convictions, often rooted in moral or religious commitment. In those situations where a husband is sufficiently opposed to abortion or sufficiently desirous of having a child that the wife will not voluntarily share the fact of her pregnancy and her intention to abort with him, the clinics' experts testified that coerced notification will predictably result in an effort to prevent the abortion. That testimony showed that the husband's response will frequently take a variety of forms other than persuasive discourse.

Casey, 947 F.2d at 712.

In the three numbered subsections below, *Amici* respectfully set out salient facts regarding the incidence and "variety of forms other than persuasive discourse" which abusive husbands in Pennsylvania employ to control their wives, and which Pennsylvania's husband notification requirement would be likely to unconstitutionally exacerbate.

1. Many Married Women in Pennsylvania Are Battered and Raped

Domestic violence is a very serious and widespread problem in the Commonwealth of Pennsylvania. *Amicus* Pennsylvania Coalition Against Domestic Violence estimates that each year 800,000 women in the state are assaulted in their own homes. In fiscal 1990-91, the 57 programs of the Pennsylvania Coalition Against Domestic Violence responded to 157,993 hotline calls

---

[3] Appendix, Statements of Interest of *Amici*, *passim*.

and provided shelter for 8,157 battered women and 10,578 children (the programs turned away 11,339 additional women and children because of lack of shelter space). According to an estimate by the Philadelphia District Attorney's Office, in Philadelphia alone 45,000 women are battered each year.

At the trial in the District Court, Dr. Lenore Walker testified that women in Pennsylvania are battered at the same rate as women in the United States.[4] The National League of Cities and the U.S. Conference of Mayors have found that half of all wives will experience some form of spouse-inflicted violence sometime during their marriage or its breakup.[5] In any given year, at least one in six married couples will experience a violent incident.[6] Battering is the single major cause of injury to women, more significant than auto accidents and muggings combined.[7] In any single day at least 1,680 adults in this country face a spouse wielding a gun or knife.[8] Each day approximately 5,000 women are battered by their husbands in the United States.[9] Men are only rarely victims of domestic violence; the U.S. Department of Justice reported that 95 per cent of the victims of domestic

---

[4] Trial Testimony of Dr. Lenore Walker, Vol. II, at 22.

[5] Langley, R. and Levy, R., *Wife-Beating, The Silent Crisis*, 1977, at 11-15.

[6] Carlson, Bonnie E., "Dating Violence: A Research Review and Comparison with Spouse Abuse," 68 *Social Casework*, January 1987, at 16-23.

[7] Bisea, Napper, Sikes, "Family and Other Intimate Assaults," *Morbidity and Mortality Weekly Report*, U.S. Dept. of Health and Human Services, Vol. 39, No. 31, August 10, 1990, at 525, citing Rosenberg, Stark, Zahn, "Interpersonal Violence: Homicide and Spouse Abuse," *Public Health and Preventive Medicine*, 12th ed., at 1399 (1986).

[8] Straus, Murray, Gelles, Richard, and Steinmetz, Suzanne, *Behind Closed Doors: Violence in the American Family*, New York, Doubleday, 1980.

[9] Federal Bureau of Investigation, *Crime in the United States*, 1986-7.

violence are women.[10]

Domestic violence is also a leading cause of death for women. Thirty per cent of female homicide victims in the United States were killed by husbands or boyfriends.[11] During 1990, in Pennsylvania every sixth day a woman was killed by her husband or boyfriend;[12] in the same year, 5.5 adults were killed *each day* in the United States by a spouse or intimate partner.[13]

2. *Reproductive Coercion Is A Substantial Component of Domestic Violence Against Married Women*

Many abusive husbands engage in reproductive coercion and violence. The District Court found that domestic violence often involves marital rape, *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 744 F. Supp. 1323, 1361 (E.D. Pa. 1990). In a study of 137 battered women in Pittsburgh, 34 per cent of the women reported being raped by their husbands at least once.[14] In a study of 325 married women who were battered, Dr. Mildred Pagelow found that 37 per cent had been

---

[10] U.S. Department of Justice, Bureau of Justice Statistics, *Report to the Nation on Crime and Justice: The Data*, Government Printing Office, October 1983.

[11] U.S. Department of Justice, *Uniform Crime Reports 1985*, Government Printing Office (Federal Bureau of Investigation, 1986), at 11.

[12] Pennsylvania State Police, *Uniform Crime Report*, 1990.

[13] Federal Bureau of Investigation, *Crime in the United States*, 1990.

[14] Frieze, Irene, "Causes and Consequences of Marital Rape," paper presented at the American Psychological Association Meetings, Montreal, Canada, September 1980.

raped by their husbands.[15] In a sample of 92 battered wives, Shields and Hanneke found that 46 per cent had been raped by their husbands.[16]

Diana Russell studied the incidence of rape of all types in a rigorously-designed study of 930 women randomly chosen from the population of San Francisco. She found that of the women who had ever been married, one out of seven had been raped by her husband; she also found that women reported more rapes by husbands and ex-husbands than by any other category of male.[17] These numbers are probably underestimates, as many women are reluctant to describe an unwanted sexual experience with a husband or ex-husband as rape.[18] Dr. Russell found that marital rape was the most difficult type of sexual assault on which to obtain information, more difficult even than incest.[19]

Amici have found that many pregnancies among battered wives are the result of marital rape.[20] Similarly, service statistics from *Amici's* domestic violence programs reveal that abusive husbands forcibly prohibit the use of contraceptives and that

---

[15] Pagelow, Mildred Daley, *Family Violence*, New York, Praeger, 1984, at 429.

[16] Shields, Nancy M., and Hanneke, Christine R., "Battered wives' reactions to marital rape," in Finkelhor, David, Gelles, Richard J., Hotaling, Gerald T., and Straus, Murray A. (eds.), *The Dark Side of Families*, Beverly Hills, Sage, 1983, at 131-48.

[17] Russell, Diana E.H., *Rape in Marriage*, New York, Macmillan, 1982, at 1-2, 65.

[18] Russell, *id.*, at 38.

[19] Russell, *id.*, at 39.

[20] Statements of Interest of Pennsylvania Coalition Against Domestic Violence, at A1; Women's Coalition of St. Croix, Virgin Islands, at A-25; Domestic Violence Research and Resources, at A-7; Women Against Abuse, Inc. and Women Against Abuse Legal Center, Inc., at A-22.

unwanted pregnancies occur with some frequency as a result.[21] A study of criminal victimization among 2,000 working women in Cleveland found that 6.6 per cent of rape victims had become pregnant as a result of the rape.[22] A much higher incidence of pregnancy has been identified when sexual assault occurs within the family. As many as 24 per cent of incest victims in one study reported that pregnancy resulted from the sexual abuse; researchers believe that the higher rate of pregnancy is due to the repeated assaults by men raping women within the family.[23]

Battered women have more pregnancies than nonabused women.[24] Moreover, when an abused woman becomes pregnant, her risk of being battered and/or raped increases.[25] The District Court found that "Mere notification of pregnancy is frequently a flashpoint for battering and violence within the

---

[21] Statements of Interest of Pennsylvania Coalition Against Domestic Violence, appended to *Amici Curiae's* Brief at A1 ; Women's Coalition of St. Croix, Virgin Islands, at A25 ; Hospitality House Services for Women, Inc., at A11; Laurel House, at A12; Women Against Abuse, Inc. and Women Against Abuse Legal Center, Inc., at A22.

[22] Koss, Mary P., Woodruff, M.S., and Koss, Paul G., "Criminal Victimization among Primary Care Medical Patients: Prevalence, Incidence, and Physician Usage," *Behavioral Sciences and the Law*, Vol. 9, 1991, at 85-96.

[23] Katz, S. and Mazur, M., *Understanding the Rape Victim*, Wiley & Sons, 1979, at 274.

[24] Stark, E., and Flitcraft, A., "Spouse Abuse," in *Surgeon General's Workshop on Violence and Public Health Source Book*, at 16; Statement of Interest of Pennsylvania Coalition Against Domestic Violence, at A-1.

[25] Gelles, R., "Violence and Pregnancy," *Journal of Marriage and the Family*, 1988, at 841-47. Statements of Interest of Pennsylvania Coalition Against Domestic Violence, at A-1; National Coalition Against Domestic Violence, at A14; Hospitality House Services for Women, Inc., at A10; Laurel House, at A12; National Women Abuse Prevention Center, at A15; Women Against Abuse, Inc. and Women Against Abuse Legal Center, Inc. at A22.

family." *Casey*, 744 F. Supp. at 1361. A woman who has previously suffered psychological abuse will now be physically abused for the first time; a woman who has previously been battered will now be attacked more viciously.[26] The American College of Obstetricians and Gynecologists has found that 25 to 45 per cent of battered women are assaulted during pregnancy.[27] Of 225 women from a battered women's shelter sample, 62 per cent were beaten during pregnancy.[28] Pregnant women are assaulted in their abdominal area with great frequency.[29] Many married women suffer miscarriages as a result of being battered by their husbands.[30]

Abuse, including violence and marital rape, repeats and recurs in the lives of battered women; as time goes on the abuse tends to occur more frequently, becomes more violent, and results in

---

[26] Trial testimony of Dr. Lenore Walker, Vol. II, at 41.

[27] The American College of Obstetricians and Gynecologists, "The Abused Woman: Fact Sheet," January 3, 1989, page 1.

[28] Okun, Lewis, *Women Abuse: Facts Replacing Myths*, Albany, State University of New York Press, 1986, at 234-240.

[29] Reynolds, Lynn, *Executive Summary of the Second National Workshop on Female Offenders*, Raleigh, NC, April 1987, at 12; The American College of Obstetricians and Gynecologists, "The Abused Woman: Fact Sheet," January 3, 1989, page 1. Statements of Interest of Pennsylvania Coalition Against Domestic Violence, at A-1; Women Against Abuse, Inc. and Women Against Abuse Legal Center, Inc., at A-22; Women's Center & Shelter of Greater Pittsburgh, at A-23.

[30] Statements of Interest of Pennsylvania Coalition Against Domestic Violence, at A1; National Coalition Against Domestic Violence, at A14; Hospitality House Services for Women, Inc., at A10.

more serious injuries.[31] A twenty-five year-old mother of six who is a client of *Amicus* Women Against Abuse Legal Center, Inc., described the violence that she suffered when she was pregnant:[32]

> I have lived with [my abusive husband] off and on for eight years. I have been beaten by him repeatedly over this period of time. Recently he has become more abusive and threatens to kill me. He has hit me with belts, with a shoe, and with his fists. I am pregnant but I am not gaining weight. He forced me to get pregnant by throwing away my birth control pills. I am afraid for my life and for my children's psychological well being... [He has] threatened to cause a miscarriage.

3. Married Women Continue to Be Abused by Their Husbands After Separation

Many, perhaps most, people believe that battered women will be safe once they separate from the batterer. They also believe that women are free to leave their abusers at any time. However, leaving does not usually put an end to the violence. Batterers may, in fact, escalate their violence to coerce a battered woman into reconciliation or to retaliate for the battered woman's perceived rejection or abandonment of the batterer. Men, who believe they are entitled to a relationship with battered women or that they "own" their wives, view women's departure as an

---

[31] Walker, Lenore, *The Battered Woman Syndrome*, New York, Springer Publishing Company, 1984, at 24-26; Pagelow, Mildred Daley, *Woman-Battering, Victims and Their Experiences*, Beverly Hills, Sage Publications, Sage Library of Social Research, Vol. 129, at 163.

[32] Statement of Interest of Women Against Abuse, Inc. and Women Against Abuse Legal Center, Inc., at A22.

ultimate betrayal which justifies retaliation.[33]

Amici's experience and a number of studies demonstrate that when a woman decides to leave an abusive relationship, she faces an *increased* danger of violence, including marital rape and death.

Women are most likely to be murdered when attempting to report abuse or to leave an abusive relationship.[34] Almost one-quarter of the women killed by their male partners in one study in Philadelphia and Chicago were separated or divorced from the men who killed them, and 28.6% of the women were attempting to end the relationship when they were killed.[35] In another study of spousal homicide, over half of the male defendants were separated from their victims.[36]

Three-fourths of domestic assaults occur while victims are separated or divorced from the abusers.[37] In one study, 73

---

[33] Saunders, D.G., and Browne, A., "Domestic Homicide," chapter to appear in R.T. Ammerman and M. Herson (Eds.), *Case Studies in Family Violence*, New York, Plenum Press; Dutton, D.G., *The Domestic Assault of Women: Psychological and Criminal Justice Perspectives*, Boston, Allyn & Bacon, 1988.

[34] Sonkin, D., Martin, D., and Walker, L.E.A., *The Male Batterer: A Treatment Approach*, New York, Springer, 1985; Browne, A., *When Battered Women Kill*, New York, The Free Press, 1987.

[35] Casanave, N., and Zahn, M., "Women, Murder and Male Domination: Police Reports of Domestic Homicide in Chicago and Philadelphia," paper presented at the Annual Meeting of the American Society of Criminology, Atlanta, October 31, 1986.

[36] Bernard, G.W., Vera, H., Vera, M.I., and Newman, G., "Till Death Do Us Part: A Study of Spouse Murder," *Bulletin of the American Academy of Psychiatry and the Law*, 1982, at 10.

[37] U.S. Department of Justice, Bureau of Justice Statistics, *Report to the Nation on Crime and Justice: The Data*, Government Printing Office, October 1983, at 21.

percent of battered women seeking emergency medical services had sustained their injuries after leaving the batterer.[38] There is substantial evidence that some men become violent only *after* their partners declare their intentions of severing the relationship.[39] In a study of women seeking divorce in Philadelphia in 1986, four percent of the women stated that they were assaulted during separation even though they had not been abused during cohabitation.[40]

Most battered wives report that their husbands will not permit an abortion because the husbands anticipate that the birth of the child will enable them to exert more control over the battered wife.[41] Husbands also often use the exercise of parental rights as a way to gain access to their former wife, to continue the violence and abuse, and to control her and terrorize her.[42]

Therefore, for pregnant wives who wish to leave an abusive marriage in order to seek a safe life, getting an abortion without

---

[38] Stark, E., Flitcraft, A., Zuckerman, D., Grey, A., Robison, J., and Frazier, W., "Wife Abuse in the Medical Setting: An Introduction for Health Personnel." *Domestic Violence Monograph Series*, No. 7, Rockville, MD, National Clearinghouse on Domestic Violence, April 1981.

[39] Pagelow, Mildred Daley, *Family Violence*, New York, Praeger, 1984, at 43.

[40] Kurz, D., and Coughey, K., "The Effects of Marital Violence on the Divorce Process," paper presented at the American Sociological Association Meeting, August 9, 1989.

[41] Statements of Interest of Pennsylvania Coalition Against Domestic Violence, at A1; Domestic Violence Research and Resources, at A7; Connecticut Coalition Against Domestic Violence, at A6; National Coalition Against Domestic Violence, at A14.

[42] Statements of Interest of Pennsylvania Coalition Against Domestic Violence, at A1; Domestic Violence Research and Resources, at A7; Hospitality House Services for Women, Inc., at A10; Women's Center & Shelter of Greater Pittsburgh, at A23.

their husband's knowledge may mean the difference between being trapped permanently in violent or abusive situations and achieving lives free of violence. *Amici* believe that the husband notification requirement of §3209 would prevent many abused wives from getting an abortion and concomitantly from leaving their abusive husbands.[43]

B. Because Women Fear that Reporting Abuse Will Result in Further Violence Against Them, the Exceptions in §3209 Are Unavailing

A central feature of domestic abuse is that it occurs in private and is kept secret within the family. The District Court found that "Family members are instructed not to tell anyone, especially police or doctors, about the abuse and violence." *Casey*, 744 F. Supp. at 1361. Sometimes the woman maintains secrecy because she is deeply ashamed that she is a victim; or she actually believes that she is to blame for the violence and deserves the abuse she is suffering. More frequently the batterer will punish the woman if she attempts to inform anyone of the violence. The District Court also found that "Battering husbands often threaten their wives or her children with further abuse if she tells an outsider of the violence." *Id*. A woman who has been the victim of terrorism by her husband over a long period of time will have great difficulty reaching out to anyone, especially to the police. Precisely because the police represent a potential threat to abusers, an abused wife will fear that going to the police would only result in increased violence by her husband.

The Federal Bureau of Investigation, as well as virtually every researcher who has worked in the area, has found that women do not disclose that they have suffered physical violence at the hands of their husbands. Women do not report such occurrences to the

---

[43] Statements of Interest of Pennsylvania Coalition Against Domestic Violence, at A1; National Coalition Against Domestic Violence, at A14; Connecticut Coalition Against Domestic Violence, at A6.

police, and often will not even disclose them on anonymous surveys. The FBI has stated:

> Underreporting remains the most serious analytic problem. Available measurements of domestic violence, no matter what their origin or intent, are too low.[44]

Wife assault is underreported by a factor of at least ten to one.[45]

The problem of underreporting is even more severe in regard to marital rape. The District Court found that "Marital rape is rarely. . .reported to law enforcement authorities," *Casey*, 744 F. Supp. at 1362. The FBI has expressed its frustration in obtaining data on rape:

> Even with the advent of rape crisis centers and an improved awareness by police in dealing with rape victims, forcible rape is still recognized as one of the most underreported of all index crimes. Victims' fear of their assailants and their embarrassment over the incidents are just two factors which can affect their decisions to contact law enforcement.

One of the major causes of the underreporting of marital rape is that many wives who have been raped by their husbands do not recognize that what has been done to them is the crime of rape. Dr. Mary P. Koss, who has done extensive research in this area, testified before the Senate Judiciary Committee, as follows:[46]

---

[44] U.S. Department of Justice, Bureau of Justice Statistics, *Intimate Victims: A Study of Violence Among Friends and Relatives*, 1980, at 3.

[45] U.S. Department of Justice, Federal Bureau of Investigation, *Crime in the U.S. - Uniform Crime Reports*, 1975, at 18-19.

[46] Koss, Mary P., "Rape Incidence: A Review and Assessment of the Data," Testimony on behalf of the American Psychological Association before the Senate Judiciary Committee, August 29, 1990, at 9.

> If a woman does not consider her unwanted, forced sexual experience to be a crime, she is unlikely to report it. . . There are reasons to believe that circumstances exist under which a person could be raped and not define the act as a crime. Empirical studies have revealed the existence of a rape supportive belief system in western industrialized countries. One component of the rape supportive belief system is rape myths, which are widely accepted false beliefs about rape such as the following: "Rapists are mentally-deranged strangers," "You cannot rape an unwilling woman," and "You cannot be raped by someone you know." Assaults that go against the stereotypes of "real rape" often are not seen as rape, even by the victim. . . . Among college women who had an experience that met legal requirements for rape, only a quarter labeled their experience as rape. Another quarter thought their experience was some kind of crime, but not rape. The remaining half did not think their experience qualified as any type of crime. (footnotes omitted)

The District Court found that:

> It is common for battered women to have sexual intercourse with their husbands to avoid being battered. While this type of coercive sexual activity would be spousal sexual assault as defined by the Act, many women may not consider it to be so and others would fear disbelief.

Casey, 744 F. Supp. at 1362. Dr. Lenore Walker testified at the trial that 59 percent of the 400 battered women whom she studied had been raped by their husbands, but *not one* had reported the rape to the police.[47]

Another reason why battered and raped women do not report the crimes committed against them by their husbands to the authorities is that they believe--often correctly--that the criminal justice system will fail to respond to them and cannot or will not protect them. For example, the Attorney General of

---

[47] Trial Testimony of Dr. Lenore Walker, Vol. II, at 23.

Ohio reported that during a nine-month period in 1979 police received approximately 15,000 domestic violence calls, filed reports in only 700 of those calls, and made arrests in 460 cases (three per cent).[48] In her survey of 350 battered women, Mildred Pagelow found that 60 percent of the victims who requested that their abusers be arrested were refused; another 24 per cent reported that although their abusers were arrested they were released shortly afterward.[49]

Joan Dillon, a battered wife, testified at the trial that her then-husband began to abuse her when she was pregnant and thereafter beat her once a week on average and refused to speak with her for long periods of time.[50] Ms. Dillon testified that for years she did not report the abuse to the police because she feared her husband's reaction if he were to find out that she had done so.[51] After she left her husband, she did attempt to obtain the help of the police and was turned down several times.[52] She testified:[53]

> One time I—my husband and I were talking on the phone and he said I'm coming to your house with a gun and I got really scared and really nervous and I thought he would really do it and I called them and I had a PFA [a protective order issued

---

[48] Ohio Attorney General, *Ohio Report on Domestic Violence*, 1979.

[49] Pagelow, Mildred Daley, *Woman-Battering, Victims and Their Experiences*, Beverly Hills, Sage Publications, 1981, at 81.

[50] Trial testimony of Joan Dillon, Appendix in the Court of Appeals, at 995, 1002-1003.

[51] Trial testimony of Joan Dillon, Appendix in the Court of Appeals, at 1001-1004.

[52] *Id.*

[53] Trial testimony of Joan Dillon, Appendix in the Court of Appeals, at 1004.

> pursuant to the Pennsylvania Protection From Abuse Act] and I talked to the State Police and told them what was happening and they said —the gentleman said to me, call me when you're dead, honey.

The requirement of §3209 that a marital rape be reported to the police before it will trigger the exception to the husband notification requirement does not protect the raped woman. It increases her danger. Not only are the police unlikely to make an arrest, but even in the relatively rare cases when the police do arrest an abusive husband, the wife is often subjected to further violence. Thirty per cent of arrested batterers assault their wives again prior to the disposition of the original charge.[54] Of battering husbands who are convicted of wife abuse, as many as 54 per cent batter their wives again within six months of completing a batterer treatment program, and virtually all men ordered to treatment by courts continue their verbal threats and their terrorism of their partners.[55] Thus, the marital rape reporting requirement of §3209 in effect replaces the danger associated with notifying an abusive husband of the intended abortion with the dangers attendant on reporting the rape to the police.

Because virtually all abused wives fear reprisals from their husbands if they disclose that they have been battered or raped to anyone and because many abused wives have been denied police protection and aid, battered wive are likely to be extremely reluctant to report to their doctors that they have been abused, and even more reluctant to file criminal charges of rape against their husbands. As a result, they will not be able to avail themselves either of the "bodily injury" exception to the husband notification requirement of Section 3209, or to the exception for

---

[54] Goldsmith, Stephen, "Taking Spouse Abuse Beyond a Family Affair," *Law Enforcement News*, Vol. XVII, no. 334, 1991.

[55] Edleson, J. L., and Syers, M., "The Relative Effectiveness of Group Treatments for Men Who Batter," Research Update, June 1989.

pregnancies resulting from rapes reported to the police. As the District Court found, "Because of the nature of the battering relationship, battered women are unlikely to avail themselves of the exceptions to section 3209 of the Act regardless of whether the section applies to them." *Casey*, 744 F. Supp. at 1362.

C. Section 3209 Provides No Protection for Psychologically Abused Married Women Who Are at Risk of Forced Pregnancy

Psychological forms of abuse are not included in the exceptions to Section 3209. Yet, domestic abuse is not limited to violence that leaves the wife bruised or injured. Many abused women are abused in psychological, nonphysical ways. Gelles and Straus believe that psychological abuse may be even more prevalent than physical violence.[56]

Although psychological abuse, such as, threats, isolation, degradation, or economic abuse, does not injure a woman's body, as physical abuse does, it can be equally coercive. Dr. Ronald A. Chez, Professor and Vice Chairman of the Department of Obstetrics and Gynecology, New Jersey Medical School, believes that psychological abuse can be as devastating to a woman as physical abuse:[57]

> There is a tendency to think of battering as only physical.... Psychological abuse is of equal importance. Verbal harassment, terroristic threats, destruction of possessions, and isolation are all powerful weapons that are used to demean, degrade, and batter women. The net result of all these activities is unremitting stress, in which the home is converted from a safe haven into a hell.

---

[56] Gelles, Murray A., and Straus, Richard J., *Intimate Violence*, New York, Simon & Schuster, 1988, at 68.

[57] Chez, Ronald A., "Battered Pregnant Women," *Genesis*, 11:1, January/February 1989, at 15.

Dr. Lenore Walker, who testified at the trial, described how husbands isolate their wives and control their behavior. For example, an abusive husband may deprive his wife of money to feed, clothe, and shelter herself and her children.[58] Some abusive husbands may commandeer a woman's own earnings so that she literally does not have access to any funds.[59] Victims report destruction of their property, which in itself implies a threat of harm and may also operate as a form of degradation.[60] Some women are not permitted to go where they want to, or are denied access to a car and to public transportation;[61] some women are not permitted to speak to neighbors.[62] Some women are physically confined to their homes.[63] The District Court found that such forms of psychological abuse fall within Amnesty International's definition of psychological torture. *Casey*, 744 F. Supp. at 1362.

Section 3209 requires that victims of psychological abuse, no matter how serious, give their husbands prior notice of the planned abortion. The District Court found that:

> The "bodily injury" exception could not be invoked by a married woman whose husband, if notified, would, in her reasonable belief, threaten to (1) publicize her intent to have

---

[58] Trial Testimony of Dr. Lenore Walker, Vol. II, at 20.

[59] *Id.*

[60] Gelles, Murray A., and Straus, Richard J., *Intimate Violence*, New York, Simon & Schuster, 1988, at 68.

[61] Walker, Lenore, *The Battered Woman Syndrome*, New York, Springer Publishing Company, 1984, at 172-73.

[62] *Id.*

[63] National Center on Women and Family Law, "Woman Battering: The Facts," New York, 1989, at 2.

> an abortion to family, friends or acquaintances; (b) retaliate against her in future child custody or divorce proceedings; (c) inflict psychological intimidation or emotional harm upon her, her children or other persons; (d) inflict bodily harm on other persons such as children, family members or other loved ones; or (e) use his control over finances to deprive of necessary monies for herself or her children.

Casey, 744 F. Supp. at 1360.

The required notice would enable the husband to coerce the wife to continue the pregnancy to term so that he may maintain his emotional and financial control over her. One woman receiving services from a domestic violence program in Pennsylvania, who characterizes herself as emotionally abused, spoke of the dilemma she confronted in determining whether to tell her husband about her decision to terminate a pregnancy. She said:[64]

> I feel like I am at an impasse. My husband is very controlling. He is particularly troubled right now about the success of my career. I am earning more than he is, and he has been strongly urging that I quit my job and looking for every opportunity to put me down for enjoying my career. He calls me so often at work that my employer has begun to notice and asked me to curtail personal calls. I feel like my husband is intentionally jeopardizing my career. Now I am pregnant. My employer doesn't believe in abortion. If I tell my husband that I am pregnant, I am certain that he will tell my employer so as to destroy my career. I do believe my boss would find a pretext for discharging me if he learned that I had an abortion. His anti-choice values are so strong that he would no longer trust me with leadership in the organization. I just know that my husband will use this information against me. He has been so emotionally punitive of late.

---

[64] Personal communication to Barbara J. Hart, Esq., Legal Office, Pennsylvania Coalition Against Domestic Violence.

II. THE HUSBAND NOTIFICATION REQUIREMENT IS NOT RATIONALLY RELATED TO ANY LEGITIMATE STATE PURPOSE

Amici agree with plaintiffs as to the proper standard of review in this case. But even if the rational relationship test, or, *a fortiori*, the "undue burden" test adopted by the court below, is applied, §3209 must fail, because the requirement of husband notification is not rationally related to any legitimate state purpose.

As the Third Circuit held, Pennsylvania's purported goal of promoting beneficial communication between a woman and her husband[65] about the woman's decision whether to terminate a pregnancy is not a legitimate state interest, *Casey*, 947 F.2d at 714. Moreover, the requirement of husband notification does not foster the Commonwealth's goal. As the Third Circuit noted, for most married women, consultation about the abortion decision is the norm.[66] *Casey*, 947 F.2d at 711. For abused women, the husband notification requirement cannot serve Pennsylvania's goal, because there is no meaningful marital relationship to

---

[65] Pennsylvania's claim that section 3209 is designed to promote the integrity of the marital relationship and the spouse's interest in having children within marriage is not entirely consonant with the legislative history of the section. The legislation as originally proposed contained a *paternal* notice requirement; as stated by the sponsor of the requirement, Rep. Stephen F. Freind, "The rationale for this is our belief that the father of the unborn baby has a right, at the very least, to know that his child, in fact, exists and is about to be killed." Pennsylvania Abortion Control Act of 1987 Legislative History published by House of Representatives member Stephen F. Freind (undated), page 5, paragraph "g." Only after the bill containing the paternal notice requirement was vetoed did husband notice and "integrity of the marital relationship" become paramount.

[66] *See also Planned Parenthood of Rhode Island v. Bd. of Medical Review*, 598 F. Supp. 625 (D.R.I. 1984) at 635 ("Mature married couples with healthy, stable relationships typically make joint decisions about abortions and a law requiring notification of the husband would be unnecessary for such couples.").

promote. As Justice White wrote in *Carey v. Population Services Int'l*, 431 U.S. 678 (1977), a state regulation must, even under a rational relationship test, "measurably contribute[] to the . . . purposes which the State advances as justification for the restriction." *Id.* at 703 (White, J., concurring in part and concurring in the result). Moreover, even where "the State may properly perform a teaching function...an attempt to persuade by inflicting harm on the listener is an unacceptable means of conveying a message that is otherwise legitimate." *Carey, supra,* at 715 (Stevens, J., concurring). This is precisely what Pennsylvania did in enacting section 3209. As the District Court found:

> A woman's personal perception of the consequences that will likely result from notifying her husband is likely to be accurate.... Forced husband notification would not improve communication within a battering relationship nor improve the marital integrity. Instead, it would foster negative and abusive communication and increase the likelihood that a woman would be seriously battered.

Casey, 744 F. Supp. at 1363.

Pennsylvania has also sought to justify the husband notification requirement by claiming that the section promotes the goal of protecting the interests of a married potential father in having children within the marriage and in protecting the prenatal life of his child. As discussed below, as a practical matter, this goal amounts to no more than a restatement of the goal of fostering beneficial communication in marriages.

In healthy marriages, the wife will tell the husband that she is pregnant, and together they will decide whether to continue the pregnancy. Through this consultation process, the husband is able to protect his procreative interests to the full extent permitted by the law. Nowhere has Pennsylvania said that it wishes to give husbands unilateral control over whether their wives carry pregnancies to term, and, indeed, such a goal would not be legitimate, as it would run directly counter to this Court's holding in *Planned Parenthood v. Danforth*, 428 U.S. (1976).

In abusive relationships, however, the effect of §3209 would be precisely to transfer such decisionmaking ability as the wife has managed to retain over her procreative choices from her to her husband, in violation of the holding in *Danforth*.

Thus, §3209 contributes nothing to either of Pennsylvania's stated purposes, and therefore the section is not rationally related to the state's purposes. As the District Court held:

> Marital accord arises from within the relationship not from the intervention of the state. Therefore, forced spousal notification is a totally irrational vehicle to achieve any of the state's purported goals.

Casey, 744 F. Supp. at 1388.

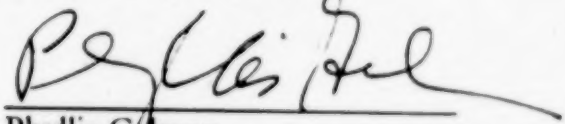
Conclusion

Amici have shown that: abuse and rape of women by their husbands is shockingly prevalent; abused wives rarely report the crimes they have endured; many abusive husbands use their wives' pregnancies, as well as their wives' children, as an instrument of control over their wives; and an abused wife's pregnancy often triggers an escalation of abuse by her husband. *Amici* have also shown that in these devastating circumstances the exceptions to Pennsylvania's husband notification requirement are either not applicable or cannot be used by those who most would need to use them. Consequently, the notice requirement would grant abusive husbands a state sanctioned *de facto* veto over their wives' ability to obtain an abortion and trap abused wives even more deeply in the hell in which they live. Finally, *Amici* have shown that Pennsylvania's husband notice requirement is not rationally related to any legitimate state purpose.

For all these reasons, this Court should affirm the holding of

the court below that the husband notification requirement does not pass constitutional muster.

Respectfully submitted,



Phyllis Gelman
Counsel of Record
Suite 11-A
211 W. 106th Street
New York, NY 10025
(212) 749-5736

Barbara J. Hart
Pennsylvania Coalition Against
Domestic Violence
524 McKnight Street
Reading, PA 19601

Attorneys for *Amici Curiae*

Dated: March 5, 1992

APPENDIX

APPENDIX

STATEMENTS OF INTEREST OF *AMICI CURIAE*

PENNSYLVANIA COALITION AGAINST DOMESTIC VIOLENCE

The Pennsylvania Coalition Against Domestic Violence is a non-profit organization incorporated in the Commonwealth of Pennsylvania for the purpose of providing services and advocacy on behalf of the victims of domestic violence and their minor children. PCADV is a membership organization of 57 shelters, hotlines, counseling programs, safe home networks, legal advocacy offices and transitional housing projects for battered women and their dependent children in the Commonwealth.

Many batterers engage in reproductive coercion and violence. Some forcibly prohibit the use of contraceptive measures. Others periodically rape their wives, sometimes inflicting severe injury to sexual organs, as well as to other parts of the body. Research reveals that the most sexually violent batterers are at greatest risk of homicidal violence toward their wives.

Denied contraceptives and coerced into intercourse, battered women sustain more pregnancies than non-battered women. Both sexual and physical violence often sharply increase once a batterer learns of a pregnancy. Violence during pregnancy is often focused on the abdomen, while otherwise more typically directed at the head or torso of battered women. As many as one-quarter of all pregnant women are battered by husbands or partners during pregnancy. Many batterers report that they interpret their wives' pregnancies as acts of abandonment or disloyalty which allow them to inflict retaliatory violence. Battered women experience more miscarriages than non-battered women.

Statutorily mandated disclosure of the pregnancy and the choice to abort risks the lives and welfare of battered women. While some pregnant battered women fear that batterers will coerce abortions, more report that batterers will forcibly prevent abortions because the birth of a child will enable husbands to assert more complete control over women's lives. The fear of

batterer violence following disclosure constrains a battered woman's liberty to choose abortion and inhibits a battered wife from taking timely action if she chooses to terminate her pregnancy.

Infants born to battered women are more likely to be premature or have low-birth-weight than children of non-battered women; and premature/low-birth-weight infants suffer greater risk of death and developmental problems than full-term/adequate-birth-weight babies. Many children of battered women suffer physical abuse and psychological terrorism at the hands of their battering fathers, and a significant number develop acute emotional and behavioral difficulties.

Post-delivery violence toward battered women often focuses on the battering husband's jealousy of the child or on his demands for total control of child-rearing practices, particularly to subordinate care of the child to nurturing and care of the battering husband. Those women forced by batterers to bear children are, as a consequence, also propelled into great economic dependence on batterers. Further, when battered women seek to separate from batterers, few husbands permit their wives independence and continue violence, controlling tactics and terrorism against wives through the exercise of their parental rights.

For many battered women, the right to an abortion means the difference between being trapped permanently in violent and abusive situations and achieving lives free of violence. Because the Pennsylvania Coalition Against Domestic Violence believes that the judgment of the Court of Appeals protects the reproductive and safety rights of battered women and children, we join with the plaintiffs and offer this brief to assist the Supreme Court in its deliberations on this critical issue of reproductive justice.

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

The American Association of University Women (AAUW), founded in 1881, is a national non-profit organization of graduates promoting equity for women, education and self-development over the life span, and positive societal change. Pennsylvania has 76 branches statewide with a membership of 6,500.

Contraceptive failure, medical complications, incest, rape and abuse can not be eradicated by law. Since unsafe, illegal abortion kills women and traumatizes families, AAUW believes abortion must remain an option in any comprehensive reproductive health program for those who need it. Ultimately, abortion is a decision to be made by the individual conscience, not a panel of judges or a chamber of legislators -- all strangers, all far removed from the consequences a woman will bear. Choice is an equity issue -- a fundamental, inalienable right impacting directly on women's self-determination. AAUW joins with the plaintiffs in *Planned Parenthood of Southeastern Pennsylvania v. Casey* in asserting that the Pennsylvania Abortion Control Act is unconstitutional.

ALLE-KISKI AREA HOPE CENTER, INC.

The Alle-Kiski Area Hope Center is a non-profit organization incorporated in the Commonwealth of Pennsylvania, serving 1,774 victims of domestic violence in 1991. The Alle-Kiski Area Hope Center believes that reproductive choice is critical to women's safety, autonomy and equality. The requirement of spousal notification of a woman's decision to terminate pregnancy impermissibly abridges a woman's right to reproductive choice, egregiously invades her right to privacy, and places her at grave personal risk. Therefore, we join in this brief to assist the Supreme Court in its deliberations on this critical issue of reproductive justice.

BATTERED WOMEN'S PROGRAM, CAPITAL AREA FAMILY VIOLENCE CENTER, INC.

The Battered Women's Program of Capital Area Family Violence Center, Inc. is a non-profit organization incorporated

in Pennsylvania serving 2,200 victims of domestic violence in 1991. The Battered Women's Program believes that reproductive choice is critical to women's safety, autonomy and equality. The requirement of spousal notification of a woman's decision to terminate pregnancy impermissibly abridges a woman's right to reproductive choice, egregiously invades her right to privacy, and places her at grave personal risk. Therefore, we join in this brief to assist the Supreme Court in its deliberations on this critical issue of reproductive justice.

BERKS WOMEN IN CRISIS

Berks Women In Crisis is a non-profit organization incorporated in the Commonwealth of Pennsylvania, serving 1,200 victims of domestic violence in 1991. Berks Women In Crisis believes that reproductive choice is critical to women's safety, autonomy, and equality. The requirement of spousal notification of a woman's decision to terminate pregnancy impermissibly abridges a woman's right to reproductive choice, egregiously invades her right to privacy, and places her at grave personal risk. Therefore, we join in this brief to assist the Supreme Court in its deliberations on this critical issue of reproductive justice.

BRADFORD COUNTY COALITION FOR CHOICE

Rural Bradford County, with a population of 61,000, has a high rate of teen pregnancy (2.3 times the state average), incest, spouse abuse and domestic violence. There is a very real concern in Bradford County regarding the impact the Abortion Control Act provisions will have on young and poor women. We must respect the privacy and dignity of these young women, or suffer the consequences of teen suicide, second trimester abortions, violence, runaways, and possible illegal or self-induced abortion.

Many of the same experiences confront poor women and/or those in abusive relationships. To force these women to jump over hurdle after hurdle is unconscionable. These stumbling blocks are not meant to "help women think about their decision" or "improve family communication" as the anti-choice people

would have us believe. They are meant to do one thing and one thing only -- make it so hard for women that they will be unable to obtain a safe abortion. State sanctioned implementation of a system made to impede access to medical service must be prohibited by this court. A consensus can never be reached. Each woman must be free to make these private decisions. Women are quite capable of doing so. We respectfully request that the challenged provisions of the Abortion Control Act be enjoined.

CARING UNLIMITED, INC.

Caring Unlimited, Inc., of Sanford, Maine, provides services to women who are victims of domestic violence. We strongly support Planned Parenthood and their efforts to challenge the Pennsylvania Abortion Control Act. We view the Act as another barrier to a woman's effort to get out of an unsafe, and in many cases an extremely violent, relationship.

CLEVELAND RAPE CRISIS CENTER

The Cleveland Rape Crisis Center is a non-profit organization incorporated in the State of Ohio in 1974. We are dedicated to providing supportive services to survivors of rape and related offenses, and further, to the prevention and ultimate elimination of the crime of rape itself.

These services are available to anyone regardless of her/his values, beliefs, or positions on issues. In any decision, we believe individuals have the right to discuss any and all possible options and we believe that the final choice is up to the individual. In order to assure survivors as many choices as possible, we support the constitutionally recognized right of procreative choice.

CLINTON COUNTY WOMEN'S CENTER

The Clinton County Women's Center, Inc., is a Domestic Violence and Rape Crisis program serving over 500 victims a year in Clinton and Potter counties in Pennsylvania. Incorporated in 1979, it is the only program providing advocacy services to victims in these counties. The organization is dedicated to keeping abortion safe, legal and accessible for victims of violence.

The Clinton County Women's Center recognizes that guaranteeing women the full range of reproduction choices is critical to women's autonomy and equality.

COLORADO DOMESTIC VIOLENCE COALITION

The Colorado Domestic Violence Coalition is dedicated to the elimination of domestic violence in all of its forms through community education, networking and the empowerment of battered women and their children. We recognize this requires a fundamental change in society's view of the roles of women and men.

CONNECTICUT COALITION AGAINST DOMESTIC VIOLENCE

The Connecticut Coalition Against Domestic Violence (CCADV) is a nonprofit organization incorporated in the state of Connecticut for the purpose of providing services and advocacy on behalf of victims of domestic violence and their minor children. CCADV is a membership organization of 18 shelters, hotlines, counseling programs, safe home networks, and transitional housing projects for battered women and their dependent children.

CCADV is committed to empowering women in abusive relationships to make decisions for themselves, free from the coercive and violent control of their partners. This commitment to empowerment is rooted in a deep respect for the right to self-determination and the value of each woman's individuality.

It is out of this commitment and these beliefs that CCADV joins other organizations and individuals in proclaiming its strong support for efforts to protect a woman's right to choose when and where to bear children. The right to choose abortion, freely and without coercion, should be available to all women, regardless of economic resources. Women have a right to make decisions regarding contraception and the termination of a pregnancy in the privacy of their doctor's or medical advisor's office and in the privacy of their own consciences. This right must be protected.

For many battered women, the right to choose an abortion means the difference between continued entrapment in violence and abusive relationships and achieving lives free of violence. Because the Connecticut Coalition Against Domestic Violence believes that the judgment of the District Court of the Eastern District of Pennsylvania in *Planned Parenthood v. Casey* protects the reproductive and safety rights of battered women and children, we join with the plaintiffs and offer this brief to assist the Supreme Court in its deliberation of this critical issue of reproductive justice.

DOMESTIC VIOLENCE RESEARCH AND RESOURCES

Domestic Violence Research and Resources (DVRR) is a private consulting business, located in the Commonwealth of Pennsylvania, which offers training, materials, and research to the domestic violence field. It makes available several research, professional, and guide books through direct mail. Training lectures, particularly on men who batter, and program evaluation are presented upon request. A variety of research papers on aspects of domestic violence are also distributed under the auspices of DVRR. Furthermore, DVRR provides program development and evaluation consultation to women's shelters and batterers programs.

DVRR has a direct interest in the "abortion notification" issue because of the services it provides to women's shelters and batterer programs. Much of the work of DVRR focuses on the risks facing battered women and the dangerousness of battering men. One of the most challenging issues facing the field in this regard is the recurring and escalating violence that results from resumed partner contact. It is not unusual for men to use children, custody or pregnancy as a means to further control, retaliate, or terrorize their female partners. Abortion notification in battering cases would very likely contribute to this danger.

Moreover, a substantial portion of battered women are forced to have sex and become pregnant against their will. An unwanted pregnancy further reduces chances of gaining independence and the increased safety that generally accompanies that

independence, according to research made available by DVRR. Therefore, statutory law that limits a woman's options in this regard would reduce the likelihood of battered women gaining independence and safety, and thus it would negate much of the positive effect of shelter and counseling services.

FAMILIES IN TRANSITION CENTER, MILFORD, DELAWARE

Families in Transition Center, established in 1979, is a battered women's program under the umbrella of People's Place II, Inc. People's Place II, Inc. is a private, non-profit organization, incorporated in the State of Delaware. Families in Transition Center serves battered women and their children who reside in Kent and Sussex Counties. Services include a thirty day crisis facility, advocacy in the legal system, a twenty-four hour hotline and a long term transitional housing component for those women and their children who have completed their 30 day crisis shelter stay. From 1984-1989, 6,678 referrals/hotline calls were taken.

Men who are abusive use physical control and male domination over their mates in order to keep them submissive. Women who are abused have no control over their bodies. Isolation from friends, family and support services keep women from breaking the cycle of violence.

Most women who have entered our shelter have reported at least one rape during their abusive relationship. Some women have entered our shelter only to discover that they are pregnant. Battered women who find themselves pregnant are terrified to report this information to their abusive mates.

Laws that require spousal notification would erode a woman's right to self-determination and control over one's life. Spousal notification would require a battered woman to have contact with her abusive mate who would use this information to coerce her to return to the violent home, where she may find herself further isolated and more severely abused.

FAMILY SERVICE OF PHILADELPHIA

Family Service of Philadelphia is a voluntary non-profit social service agency which has been serving Philadelphia for more than 100 years. Family Service is a member of the United Way of Southeastern Pennsylvania and Family Service America, the national standard setting body for our field. We are accredited by the Council on Accreditation of Services for Families and Children. Family Service offers counseling to individuals, families and couples, family life education, Plays for Living and family advocacy. A substantial proportion of our counseling clients are victims of domestic abuse (domestic violence is an issue in approximately one-third of our cases); our family life education and Plays for Living offer education and training for the community on issues of domestic violence; Project RAP, our treatment program for male batterers, the only one of its kind in Philadelphia, treats almost 300 men annually.

The mission of Family Service is to strengthen and enhance family life. We believe that the effect of the spousal notification requirement is not to strengthen the marital relationship but rather to restrict access to health care and/or to place many pregnant women in a dangerous predicament. Furthermore, we believe that the less government is involved in family life decision making, the better it will be for the family.

FLORIDA COALITION AGAINST DOMESTIC VIOLENCE

The Florida Coalition Against Domestic Violence is deeply concerned over the issues involved in *Planned Parenthood of Southeastern Pennsylvania v. Casey*.

We are opposed to the requirement that a married woman notify her husband before seeking an abortion because the notice requirement prevents a woman from exercising self-determination over her own body and life and because the requirement does not take into account the complexity within marital relationships.

It is the right of each human being to make decisions which will make her world and her children's world safe and secure.

GWINNETT CITIZENS FOR CHOICE

Gwinnett Citizens for Choice is a broad based coalition of individuals and groups in Gwinnett County, Georgia, committed to reproductive freedom of choice. We believe that abortion is a critical part of the entire package of reproductive rights that include contraception, sexuality education and the right to choose to end a crisis pregnancy. These rights belong to the individual and not to the government. Only the woman in a crisis pregnancy can weigh all of the factors that must enter into such a personal decision. We are committed to protecting this right through education and political action.

HOSPITALITY HOUSE SERVICES FOR WOMEN, INC.

Hospitality House Services for Women, Inc. was incorporated as a private, not for profit organization in July 1974.

Our mission is:

> We believe that every human being has the right to respect as a person and to a life free from abuse and fear. We recognize that domestic abuse whether physical, verbal or sexual is an act of oppression and often the outgrowth of an imbalance of power in our social structures.

Hospitality House Services for Women, Inc. is committed to ending violence against women by providing direct services to abused women and their children, and to changing social structures through education, legislation and advocacy. Our services shall aid and support women and children, empowering them with a sense of their own dignity and their right to a life free from abuse.

We provide shelter to approximately 600 battered women and their children each year. We also provide options counseling, advocacy and accompaniment to more than 1,500 women who are considering seeking protection under the Protection from Abuse Act.

We believe mandatory spousal notification would be extremely detrimental to women who are in abusive situations.

Pregnancy and children are routinely used by battering males as instruments of their control. Oftentimes the first or most severe battering incident takes place during pregnancy, and the battering male often severely abuses one or more of the couple's children.

The list of sexual abuses that one encounters in domestic violence is endless and yet the details do not appear in newspapers or proposals; it is the part of many battering situations that is still very much hidden. Rape and the prohibition of contraception are not uncommon; nor is miscarriage precipitated by blows to the abdomen. Further, when a woman leaves her violent situation, the batterer frequently focuses threats and coercion directly on the children or through the exercise of parental rights.

Mandatory spousal notification will provide legal support for abusive and controlling techniques used by batterers.

HOUSTON AREA WOMEN'S CENTER

The Houston Area Women's Center, an organization of volunteers and professional staff, provides shelter and support services to survivors of sexual assault and family violence. We educate and inform our community in order to eliminate the causes of violence. Our vision and leadership empower women to advance their role, their rights and their well being. Reproductive freedom is a fundamental right which women must be able to exercise unencumbered to be full, participating citizens in a democracy. For women to grow to their full potential, they cannot live in an atmosphere of fear and intimidation or without the ability to control their destinies.

ILLINOIS COALITION AGAINST SEXUAL ASSAULT (ICASA)

The Illinois Coalition Against Sexual Assault is a private, non-profit, tax-exempt coalition providing services to victims of sexual assault throughout Illinois. ICASA member centers provide service to adult survivors of rape, incest and childhood sexual abuse and assault. We support the right of all victims of sexual assault to make choices about reporting, prosecution,

pregnancy, future safety and other issues precipitated by the sexual abuse inflicted upon them. The preservation of reproductive freedom is essential to sexual abuse survivors. For this reason, we join with plaintiffs as *amicus curiae*.

LAUREL HOUSE

Laurel House, located in Montgomery County, Pennsylvania, offers shelter and support for women and children fleeing family violence. In its ten year history the program has served 4500 persons providing safe haven, counseling and advocacy, children's programming, and post-shelter support services.

The demand for power and complete control in a relationship is often the underlying cause for violent and threatening behavior. Battered women, gathered in support groups, speak of how that control was exacted. Marital rape and other forms of sexual violence are a sadly familiar part of many stories. Many women are not permitted to use any contraception and unwanted pregnancies occur with some frequency. The tragic cycle continues with an acceleration of battering during pregnancy, particularly to trunk and torso.

Mandated disclosure of pregnancy and choice to abort places women's lives in further danger. Women's options to break free of the stranglehold of violence are permanently blocked by unjust legal mandates of this nature. We join others working for the eradication of family violence in expressing our support for the judgment of the District Court on this critical issue.

LUTHERAN SOCIAL SERVICES - SOUTH REGION

Lutheran Social Services - South Region is a non-profit organization incorporated in Pennsylvania serving 175 perpetrators of violence against women in 1991. Lutheran Social Services - South Region believes that reproductive choice is critical to women's safety, autonomy, and equality. The requirement of spousal notification of a woman's decision to terminate pregnancy impermissibly abridges a woman's right to reproductive choice, egregiously invades her right to privacy, and places her at grave personal risk. Therefore, we join in this brief

to assist the Supreme Court in its deliberations on this critical issue of reproductive justice.

MARIN ABUSED WOMEN'S SERVICES

Marin Abused Women's Services is a non-profit organization serving battered women and their children in Marin County, California. The agency, now in its 15th year, provides two 24-hour hotlines for women (English and Spanish speaking), shelter/transitional housing, support groups for women, community outreach and trainings, and a re-education program for men who batter. It is our purpose to offer the opportunity and resources for women and their children to live self-determining lives free from violence.

MEN STOPPING VIOLENCE, INC.

Men Stopping Violence, Inc., is a non-profit organization incorporated in Georgia, serving 2,000 perpetrators of violence against women in 1991. Men Stopping Violence believes that reproductive choice is critical to women's safety, autonomy and equality. The requirement of spousal notification of a woman's decision to terminate pregnancy impermissibly abridges a woman's right to reproductive choice, egregiously invades her right to privacy, and places her at grave personal risk. Therefore, we join in this brief to assist the Supreme Court in its deliberations on this critical issue of reproductive justice.

MY SISTER'S PLACE

My Sister's Place - Refuge from Violence in The Family - provides direct service, advocacy, and community education for abused women and their children. The core of violence and abuse is an imbalance of power. Any act to reduce or remove a woman's control over her body is a violent, abusive act. We support the empowerment of women which requires women having the power to choose.

NATIONAL COALITION AGAINST DOMESTIC VIOLENCE

The National Coalition Against Domestic Violence (NCADV) is a private, non-profit organization incorporated in the state of Oregon which is dedicated to the empowerment of battered women and their children and the elimination of personal and societal violence in the lives of women and their children. NCADV is primarily a network of service providers for battered women and their children.

NCADV is committed to the struggle for reproductive choice and equality for all women. We are signing on as an *amicus curiae* acknowledging our support for the position of the plaintiffs in the appeal to the U.S. Supreme Court in *Planned Parenthood of Southeastern Pennsylvania et al v. Casey et al.* At issue in this case is the Abortion Control Act of Pennsylvania, a statute which may be the most intrusive upon reproductive freedom in the country.

Of particular concern to us is the spousal notice requirement which would require women seeking abortions to present to the physician a signed statement that she has notified her spouse that she is about to undergo an abortion.

NCADV believes violence against women and children results from the use or threat of force to achieve and maintain control over others in intimate relationships, and societal abuses of power and domination in the forms of sexism, racism, homophobia, classism, anti-semitism, able-bodyism, ageism and other oppressions. Batterers engage in many forms of coercion and violence, including reproductive coercion and violence. Battering also often occurs during pregnancy. In one hospital emergency department 21% of pregnant women had been battered. These women had twice as many miscarriages as nonbattered women (Stark et al, 1981).

Statutorily mandated disclosure of pregnancy and the choice to abort jeopardizes battered women. At the individual level it increases the opportunity for batterers to exert control and dominance. At the institutional level it oppresses battered women by taking away additional choices and therefore skewing power

differentials even more in the batterer's favor.

The right to obtain an abortion for many battered women can mean the difference between being trapped in a violent relationship and choosing to leave the violence. We therefore join with the plaintiffs in offering this brief.

NATIONAL COALITION AGAINST SEXUAL ASSAULT

The National Coalition Against Sexual Assault is a non-profit organization incorporated in Illinois, representing 500 programs which serve victims of sexual assault.

The National Coalition Against Sexual Assault believes that reproductive choice is critical to women's safety, autonomy and equality. The requirement of spousal notification of a woman's decision to terminate pregnancy impermissibly abridges a woman's right to reproductive choice, egregiously invades her right to privacy, and places her at grave personal risk. Therefore, we join in this brief to assist the Supreme Court in its deliberations on this critical issue of reproductive justice.

NATIONAL WOMEN ABUSE PREVENTION CENTER

The National Women Abuse Prevention Center (NWAPC) is a domestic violence policy and resource center that works to create positive change in the social institutions that affect the lives of battered women and their children. A non-profit organization established in 1986, the National Center provides training, technical assistance, public education materials, and assistance in program and policy development to domestic violence advocates and other professionals who work with battered women.

Our interest in this case is due to our concern for battered women who would lose their ability to escape from violent husbands. Many battered women are raped and describe sexual assaults occurring during pregnancy. In addition to the physical and sexual assaults experienced by battered women during pregnancy, victims with children often choose to remain with an abusive husband out of economic necessity. If the abuser denies victims the option of choosing abortion, women would be trapped in lives of violence in order to support their children.

In addition, the danger to the health and well-being of the child is at stake. The March of Dimes has found that more children are born with birth defects due to domestic violence than for all the diseases for which women are currently inoculated.

NWAPC supports the right of women and their children to live free from violence and intimidation, and therefore supports the judgment of the District court and joins as an *amici* in this case.

NEW JERSEY COALITION FOR BATTERED WOMEN

The New Jersey Coalition for Battered Women is a statewide coalition of domestic violence service programs and concerned individuals whose purpose and mission is to end violence in the lives of women. Incorporated in 1979, the Coalition is a private non-profit corporation whose members include all non-governmental domestic violence programs in New Jersey.

The Coalition advocates for battered women with state level governmental and private organizations and the state legislature and governor to support legislation and policies that will benefit victims of domestic violence.

The NJ Coalition for Battered Women opposes any law which interferes with a woman's reproductive choice. The NJ Coalition for Battered Women especially opposes and warns against a spousal notification requirement for abortions. In cases where a woman seeking an abortion is a victim of spousal abuse, a notification requirement presents the abuser with a particularly insidious method to further abuse, harass and control his victim. The exceptions to this notification requirement are insufficient to protect battered women.

NEW YORK STATE COALITION AGAINST DOMESTIC VIOLENCE

The New York State Coalition Against Domestic Violence is a membership organization of battered women's shelters, safe home projects, counseling and advocacy groups, and individuals committed to empowering women and helping them to lead

violence-free lives. The Coalition is an inclusive organization that works with all women, regardless of race, class, ethnicity or sexual orientation. The Coalition believes in women's rights to choice and in the accessibility of services to all women, regardless of economic status. The Coalition strongly supports every woman's right to self-determination. Further, we steadfastly oppose any restrictions imposed on any woman's ability to freely access reproductive care or abortion services.

OREGON COALITION AGAINST DOMESTIC AND SEXUAL VIOLENCE

The Oregon Coalition Against Domestic & Sexual Violence (OCADSV) is a non-profit corporation, incorporated under the laws of the State of Oregon since 1978. The OCADSV has 31 member programs that provide direct services to victims of domestic and sexual violence throughout Oregon.

The OCADSV believes that a woman has a right to make choices concerning her health and well-being, free from control by the state or her husband. Wife abuse is caused, to a large extent, by a husband's need to exert power and control over his wife. Therefore, Pennsylvania's requirement that a woman notify her husband before she can get an abortion places the government in a position of colluding with and promoting violent criminal behavior. We believe this undermines respect for law as well as respect for individual rights.

The OCADSV has a strong interest in seeing that the constitutional rights of victims of domestic and sexual violence are upheld and that the law is an active agent in preventing these crimes, not promoting them. For these reasons, the OCADSV respectfully requests to be granted *amicus curiae* status in the case of *Planned Parenthood of Southeastern Pennsylvania v. Casey*.

PENNSYLVANIA CAMPAIGN FOR CHOICE

The Pennsylvania Campaign for Choice is a broad-based, statewide, bi-partisan political action committee whose sole focus is to support pro-choice candidates for state office. We believe

that women must have the right to make private and personal decisions, such as the decision to have an abortion, without interference from the state. Therefore, we support the position of the plaintiffs in this case and join as an *amicus*.

PENNSYLVANIA COALITION AGAINST RAPE

The Pennsylvania Coalition Against Rape (PCAR) is a private, non-profit, tax-exempt coalition organization of 45 rape crisis centers providing service to victims of sexual violence in 58 counties in the Commonwealth of Pennsylvania. Each of the 45 rape crisis centers are private, non-profit, tax-exempt organizations. None of the rape crisis centers in Pennsylvania in any way represents or is affiliated with any branch of state or local government. Individual rape crisis centers exist for the sole purpose of providing advocacy and counseling to adult and child victims of sexual violence and persons who are significant in the lives of these victims. PCAR, as an umbrella organization, acts as a clearinghouse for information about issues related to sexual violence.

PSYCHOLOGY SOCIETY

The Psychology Society is a professional organization of men and women who treat people. Our practitioners believe that persons, whether they are patients or not, can and should make decisions that affect them without unwanted interference. Although we believe that sexual partners should decide before the act whether pleasure or procreation are desired, we fully support the woman's right to terminate a pregnancy - often circumstances change after the fact.

SURVIVORS, INC.

Survivors, Inc. is a non-profit organization incorporated in the Commonwealth of Pennsylvania for the purpose of providing services and advocacy on behalf of victims of domestic violence and their minor children in Adams County, Pennsylvania. Survivors, Inc. is a member of the PCADV's organization of 53 shelters, hotlines, counseling programs, safe home networks, legal

advocacy offices and transitional housing projects for battered women and their dependent children in the Commonwealth.

As advocates for battered women, we have seen firsthand the physical results of battering during pregnancy and have heard from the victims of the psychological trauma they and their infants have experienced. We have witnessed the effects of growing up in violent homes on the children who eventually come to shelter or support groups.

We regard the statutorily mandated disclosure to husbands of pregnancy and the choice to abort as an unacceptable intrusion into the privacy of women's lives. We also regard the provisions of Section 3209 of the Pennsylvania Abortion Control Act of 1982, as amended by Act 31 and Act 64, as significantly disempowering to the autonomy and equality of women, as well as life threatening to many, and therefore join with the Pennsylvania Coalition Against Domestic Violence and other *amici curiae* in supporting the judgment of the District Court which protects the reproductive and safety rights of battered women and children. We join with the plaintiffs and offer this brief to assist the Supreme Court in its deliberations on this critical issue of reproductive justice.

TIOGA COUNTY WOMEN'S COALITION

The Tioga County Women's Coalition is a non-profit organization incorporated in the Commonwealth of Pennsylvania affiliated with the Pennsylvania Coalition Against Domestic Violence. Our purpose is to provide services and advocacy on the behalf of battered women and their minor children. We support the judgment of the District Court to protect the reproductive rights and safety of battered women.

TURNING POINT OF LEHIGH VALLEY, INC.

Turning Point of Lehigh Valley is a non-profit organization incorporated in the Commonwealth of Pennsylvania which served 2,124 victims of domestic violence in 1991.

Turning Point of Lehigh Valley believes that the requirement of spousal notification of a woman's decision to terminate

pregnancy egregiously invades her right to privacy, and places her at grave personal risk. Therefore, we join in this brief to assist the Supreme Court in its deliberations on this critical issue of reproductive justice.

VERMONT NETWORK AGAINST DOMESTIC VIOLENCE AND SEXUAL ASSAULT

The Vermont Network Against Domestic Violence and Sexual Assault is a statewide network of direct service groups committed to ending physical, sexual, and emotional violence against women and their children through direct services and social change. The Network believes the roots of violence against women lie in the patriarchal structure of society and the family, which condones violence as a method of control. Because most victims of domestic violence and sexual assault are women and children, the Network's primary focus is on the battered women and their children and sexual assault survivors. The Network's goals are: To facilitate communication among organizations for battered women and sexual assault survivors in Vermont. a) To share skills and information b) To coordinate service delivery and provide training. c) To develop resources. To educate the community about violence against women and children through public speaking, literature and news media. To initiate legislation on the state and national levels. To provide advocacy on behalf of battered women and sexual assault survivors on a statewide level and advocacy on behalf of member organizations.

VOLUNTEERS AGAINST ABUSE CENTER OF BUTLER COUNTY, INC.

The Volunteers Against Abuse Center of Butler County, Inc. is a non-profit organization incorporated in the Commonwealth of Pennsylvania, serving 1,015 victims of domestic violence in 1991. The Volunteers Against Abuse Center of Butler County, Inc. believes that reproductive choice is critical to women's safety, autonomy and equality. The requirement of spousal notification of a woman's decision to terminate pregnancy impermissibly abridges a woman's right to reproductive choice, egregiously

invades her right to privacy, and places her at grave personal risk. Therefore, we join in this brief to assist the Supreme Court in its deliberations on this critical issue of reproductive justice.

WASHINGTON COALITION OF SEXUAL ASSAULT PROGRAMS

The Washington Coalition of Sexual Assault Programs (WCSAP) is a coalition of over 40 rape crisis, sexual assault programs throughout Washington State. We have an additional 100 associate members, including individuals and other agencies working with both adult and child victims of sexual assault and abuse. WCSAP acts as a professional resource for rape crisis and sexual assault programs, providing training and technical assistance. The organization provides information, referrals and education to the public at large, schools, churches, government organizations and other professionals and agencies. WCSAP also acts as an advocate for the rights of sexual assault and sexual abuse victims in the legislative and criminal justice systems.

A WOMAN'S PLACE

A Woman's Place is a non-profit organization incorporated in the Commonwealth of Pennsylvania to provide advocacy and services to battered women and their children in Bucks County as well as educational and prevention programs and advocacy of efforts to end this crime. In 1991, the agency served 2,791 victims of domestic violence and 340 children, family members or friends of victims of domestic violence. A Woman's Place believes that reproductive choice is critical to women's safety, autonomy and equality. The requirement of spousal notification of a woman's decision to terminate pregnancy compromises a woman's right to reproductive choice, invades her right to privacy and, especially in the case of a battered woman, places her at grave personal risk. Therefore, we join in this brief to assist the Supreme Court in its deliberations on this critical issue of reproductive justice and women's safety.

WOMEN AGAINST ABUSE, INC. AND WOMEN AGAINST ABUSE LEGAL CENTER, INC.

Women Against Abuse (WAA) is a non-profit organization founded in 1976 for the purpose of providing service and advocacy to victims of domestic violence and their children. Since that time, WAA has provided shelter, transitional housing, legal services, counseling and advocacy to more than 100,000 battered women in the Philadelphia area.

Our work has taught us that battered women are at high risk for sustaining unwanted pregnancies, as they are often denied access to contraceptives and coerced into intercourse. Forcing women to become pregnant and carry pregnancies to term is a method batterers frequently use to maintain physical, emotional and financial control over their victims. For example, one woman represented by our Legal Center made the following statement: "I have lived with [my abusive husband] off and on for eight years. I have been beaten by him repeatedly over this period of time. Recently he has become more abusive and threatens to kill me. He has hit me with belts, with a shoe, and with his fists. I am pregnant but I am not gaining weight. He forced me to get pregnant by throwing away my birth control pills. I am afraid for my life and for my children's psychological well being. . . [He has] threatened to cause a miscarriage." At the time this statement was being made, our client was 25 years old and had six children.

In another case currently being handled by our Legal Center, we represent a battered woman who became pregnant after she was raped by her batterer. Subsequently, the batterer attempted to force her to sign a paper giving him custody of the baby when it is born and has threatened to make her life "a living hell" if she has an abortion.

Additionally, violence often escalates in frequency and severity during pregnancy. Our experience is that women are more likely to be beaten when pregnant and are at particular risk for abdominal assaults. For these reasons, mandatory disclosure to husbands of both the pregnancy and the choice to abort jeopardizes the lives and safety of battered women. The fear of

violence following disclosure interferes with the battered woman's fundamental right to choose abortion in a timely fashion or at all.

For many battered women, the right to an abortion means the difference between being trapped permanently in violent and abusive situations and achieving lives free of violence. Because WAA believes that the judgment of the District Court protects the reproductive and safety rights of battered women and children, we join with the plaintiffs and offer this brief to assist the U.S. Supreme Court in its deliberation on this critical issue of reproductive justice.

WOMEN'S CENTER & SHELTER OF GREATER PITTSBURGH

The Women's Center and Shelter of Greater Pittsburgh is a non-profit organization incorporated in 1974 in the Commonwealth of Pennsylvania for the purposes of providing emergency shelter and supportive services to victims of domestic violence and their minor children, and of providing community education on the problems of domestic violence.

Annually, the Women's Center and Shelter provides over 10,000 nights of shelter to more than 700 battered women and their children, handles over 14,000 hotline calls, provides legal advocacy and court accompaniment to more than 3,300 victims of domestic violence, and provides individual or group counseling to more than 1,000 abused women and their children.

The Women's Center and Shelter's work with survivors of abuse in the last sixteen years has shown that many batterers engage in reproductive coercion and violence. We also have learned that both sexual and physical violence often sharply increase once a batterer hears of a pregnancy. Violence during pregnancy is often focused on the abdomen, while otherwise the violence is more typically directed at the head or torso of battered women. A high percentage of the women sheltered at WC&S are pregnant.

It is the belief of the Women's Center and Shelter (WC&S) that statutorily mandated disclosure to husbands of the

pregnancy and the choice to abort risks the lives and welfare of battered women. Further, when battered women seek to separate from batterers, few husbands permit their wives independence; and they continue their violence, controlling tactics and terrorism against wives through the exercise of their parental rights, particularly during child visitation. For many battered women, the right to an abortion means the difference between being trapped permanently in violent and abusive situations and achieving lives free of violence.

Because the Women's Center and Shelter believes that the judgment of the District Court protects the reproductive and safety rights of battered women and children, we join with the plaintiffs in offering this *amicus* brief to assist the U.S. Supreme Court in its deliberations on this critical issue of reproductive justice in *Planned Parenthood v. Casey*, where husband notification under the Abortion Control Act is at issue.

WOMEN'S CENTER OF MONTGOMERY COUNTY

The Women's Center of Montgomery County is a non-profit organization incorporated in the Commonwealth of Pennsylvania, serving 2,723 victims of domestic violence in 1991. The Women's Center of Montgomery County believes that reproductive choice is critical to women's safety, autonomy and equality. The requirement of spousal notification of a woman's decision to terminate pregnancy impermissibly abridges a woman's right to reproductive choice, egregiously invades her right to privacy, and places her at grave personal risk. Therefore, we join in this brief to assist the Supreme Court in its deliberations on this critical issue of reproductive justice.

WOMEN'S CENTER OF WARREN AND FOREST COUNTIES, INC.

The Women's Center of Warren and Forest Counties, Inc. is a non-profit organization incorporated in Pennsylvania, serving 800 victims of domestic violence in 1991. The Women's Center of Warren and Forest Counties, Inc. believes that reproductive choice is critical to women's safety, autonomy and equality. The

requirement of spousal notification of a woman's decision to terminate pregnancy impermissibly abridges a woman's right to reproductive choice, egregiously invades her right to privacy, and places her at grave personal risk. Therefore, we join in this brief to assist the Supreme Court in its deliberations on this critical issue of reproductive justice.

WOMEN'S COALITION OF ST. CROIX, VIRGIN ISLANDS

The Women's Coalition of St. Croix, founded in 1981, is dedicated to ending violence in the lives of women and children. We provide crisis intervention, support, and emergency services for victims of domestic violence, rape and other crime.

We are deeply concerned about the problems of battered women and know first-hand that many battered women become pregnant as a result of spousal rape and/or the batterers' refusal to allow women to use birth control.

This organization supports the plaintiffs in the case of *Planned Parenthood of Southeastern Pennsylvania et al v. Casey* now pending in the United States Supreme Court.

WOMEN'S HELP CENTER, INC.

The Women's Help Center, Inc. is a non-profit organization incorporated in the Commonwealth of Pennsylvania, serving more than 1,200 victims of domestic violence in 1991. The Women's Help Center believes that reproductive choice is critical to women's safety, autonomy and equality. The requirement of spousal notification of a woman's decision to terminate pregnancy impermissibly abridges a woman's right to reproductive choice, egregiously invades her right to privacy, and places her at grave personal risk. Therefore, we join in this brief to assist the Supreme Court in its deliberations on this critical issue of reproductive justice.

WOMEN'S RESOURCES OF MONROE COUNTY, INC.

Women's Resources of Monroe County, Inc. is a non-profit organization incorporated in the Commonwealth of Pennsylvania, serving in fiscal year 90/91, 839 victims of

domestic violence and 240 victims of sexual assault. Women's Resources of Monroe County, Inc. believes that reproductive choice is critical to women's safety, autonomy and equality. The requirement of spousal notification of a woman's decision to terminate pregnancy impermissibly abridges a woman's right to reproductive choice, egregiously invades her right to privacy, and places her at grave personal risk. Therefore, we join in this brief to assist the Supreme Court in its deliberations on this critical issue of reproductive justice.